

April 28, 1982

BY MESSENGER

Robert Hadl
Universal City Studios, Inc.
100 Universal City Plaza
Universal City, California 91608

Re: "Donkey Kong"

Dear Bob:

I enclose, as you requested, a rough draft of a letter to Nintendo Corporation of America concerning "Donkey Kong".

Best regards.

Very truly yours,

STEPHEN A. KROFT

SAK:jw
Enclosure (as indicated)

AE001190

April __, 1982

DRAFT

Nintendo Corporation of America

Re: "Donkey Kong"

Gentlemen:

This firm represents Universal City Studios, Inc. ("Universal"). Universal is the sole and exclusive owner of all rights (except book publishing rights) in and to the name, title, character and story "King Kong" and "Kong" (hereinafter "King Kong") including, without limitation, the right to exploit, license and sell games, toys, video displays and other forms of merchandising based upon or using the "King Kong" name, title and character. Universal acquired these rights under written agreement between Universal and the heirs of Merian C. Cooper, the creator of the original "King Kong" motion picture. Universal and its predecessors in interest have invested enormous sums of money, time and effort in the name, title, character and story "King Kong" and, as a result thereof, Universal has acquired, and now owns, valuable rights therein.

It has recently come to Universal's attention that you are exploiting, marketing, selling, and distributing for use by the public video games entitled "Donkey Kong" which use and incorporate the "King Kong" name, title, character and story. As you are well aware, you have not sought or

AE001191

received Universal's permission to market, sell, distribute or otherwise exploit the "King Kong" name, title, character or story either in "Donkey Kong" or in any other fashion. Accordingly, your activities in exploiting "Donkey Kong" have infringed and violated, and unless terminated immediately, will continue to infringe and violate Universal's valuable exclusive rights in the name, title, character and story "King Kong". Moreover, your activities have undoubtedly misled and deceived, and are continuing to mislead and deceive, the public into mistakenly believing that "Donkey Kong" has been licensed, sponsored or created by or under the authority of, or is somehow connected with, Universal. As a result of your foregoing activities, you have unjustly profited at Universal's expense, and Universal has sustained, and will continue to sustain, potentially enormous damages.

We hereby demand on behalf of Universal that you immediately (a) cease and desist the marketing, sale, distribution and all other exploitation of "Donkey Kong" and any other product which uses the name, title, character or story "King Kong" and (b) remove (or cause to be removed) the name, title and character "King Kong" and "Kong" from all units of "Donkey Kong" which you have previously marketed, sold or distributed.

Demand is further made that you deliver to this office, within ten days of the above date, an accounting of all

profits received by you to date from the exploitation, marketing, sale and distribution of "Donkey Kong" together with a written confirmation that you will immediately comply with the demands set forth in the immediately preceding paragraph. Should you fail to do so, our client will have no choice but to take all steps appropriate for the protection of its rights, including litigation if necessary. If you believe that this matter can be resolved amicably within this ten day period, Universal would, of course, entertain proposals to this effect.

The foregoing is stated without prejudice to, and with a full reservation of, all of Universal's rights, remedies, claims and positions with respect to the matters discussed above.

Very truly yours,

STEPHEN A. KROFT

SAK:jw

bcc: Sidney J. Sheinberg
Robert Hadl
Allen E. Susman
Robert H. Thau
William Billick

AE001193

April __, 1982

DRAFT

DISPERSED

Nintendo Corporation of America

Re: "Donkey Kong"

Gentlemen:

This firm represents Universal City Studios, Inc. ("Universal"). Universal is the sole and exclusive owner of all rights (except book publishing rights) in and to the name, title, character and story "King Kong" and "Kong" (hereinafter "King Kong") including, without limitation, the right to exploit, license and sell games, toys, video displays and other forms of merchandising based upon or using the "King Kong" name, title and character. Universal acquired these rights under written agreement between Universal and the heirs of Merian C. Cooper, the creator of the original "King Kong" motion picture. Universal and its predecessors in interest have invested enormous sums of money, time and effort in the name, title, character and story "King Kong" and, as a result thereof, Universal has acquired, and now owns, valuable ~~property~~ rights therein.

It has recently come to Universal's attention that you are exploiting, marketing, selling, and distributing for use by the public video games entitled "Donkey Kong" which use and incorporate the "King Kong" name, title, character and story. As you are well aware, you have not sought or

AE001194

received Universal's permission to market, sell, distribute or otherwise exploit the "King Kong" name, title, character or story either in "Donkey Kong" or in any other fashion. Accordingly, your activities in exploiting, ~~marketing, selling and distributing~~ "Donkey Kong" have infringed and violated, and unless terminated immediately, will continue to infringe and violate Universal's valuable exclusive rights in the name, title, character and story "King Kong". Moreover, your activities have ^{undoubtedly} ~~unquestionably~~ misled and deceived, and are continuing to mislead and deceive, the public into mistakenly believing that "Donkey Kong" has been licensed, sponsored or created by or under the authority of, or is somehow connected with, Universal. As a result of your foregoing activities, you have unjustly profited at Universal's expense, and Universal has sustained, and will continue to sustain, potentially enormous damages.

We hereby demand on behalf of Universal that you immediately (a) cease and desist the marketing, sale, distribution and all other exploitation of "Donkey Kong" and any other product which uses the name, title, character or story "King Kong" and (b) remove (or cause to be removed) the name, title and character "King Kong" and "Kong" from all units of "Donkey Kong" which you have previously marketed, sold or distributed.

Demand is further made that you deliver to this office, within ten days of the above date, an accounting of all profits received by you to date from the exploitation, marketing, sale and distribution of "Donkey Kong" together with a written confirmation that you will immediately comply with the demands set forth in the immediately preceding paragraph. Should you fail to do so, our client will have no choice but to take all steps appropriate for the protection of its rights, including litigation if necessary. If you believe that this matter can be resolved amicably within this ten day period, Universal would, of course, entertain proposals to this effect.

The foregoing is stated without prejudice to, and with a full reservation of, all of Universal's rights, remedies, claims and positions with respect to the matters discussed above.

Very truly yours,

STEPHEN A. KROFT

SAK:jw

bcc: Sidney J. Sheinberg
Robert Hadl
Allen E. Susman
Robert H. Thau
William Billick

Demand is further made that you deliver to this office, within ten days of the above date, an accounting of all profits received by you to date from the exploitation, marketing, sale and distribution of "Donkey Kong" together with a written confirmation that you will immediately comply with the demands set forth in the immediately preceding paragraph. Should you fail to do so, our client will have no choice but to take all steps appropriate for the protection of its rights, including litigation if necessary. If you believe that this matter can be resolved amicably within this ten day period, Universal would, of course, entertain proposals to this effect.

The foregoing is stated without prejudice to, and with a full reservation of, all of Universal's rights, remedies, claims and positions with respect to the matters discussed above.

Very truly yours,

STEPHEN A. KROFT

SAK:jw

bcc: Sidney J. Sheinberg
Robert Hadl
Allen E. Susman
Robert H. Thau
William Billick